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TAGS: [PGOV](#) [ICTY](#) [PREL](#) [EAID](#) [SR](#)
SUBJECT: CERTIFICATION AND SERBIA'S "NEW" GOVERNMENT

¶1. (c) The new government in Serbia does not look appreciably different from the previous one. Tadic's DS now has the potential to play a large role in defense and foreign affairs that could have an impact on moving forward the Euro-Atlantic agenda, but Kostunica still holds many of the reins. Given Kostunica's ability to routinely outplay Tadic on political tactics, we should not expect an overabundance of change in the policy areas on which we engage with Serbia.

¶2. (c) Nowhere is this more true than on ICTY cooperation. Tadic has routinely given us his strongest assurances that completing ICTY cooperation will be his highest priority. The coalition deal he has now, though, creates the appearance of fragility - any coalition partner can bring it down if the government tries to do something against one party's perceived vital interests. Kostunica continues to adhere to a policy of voluntary surrenders and try to wait for the international community to lose interest, or to sublimate ICTY cooperation to the "greater good" of bringing Serbia into Europe. Tadic, on the other hand, openly calls for Mladic's arrest. For an arrest to happen, Kostunica would presumably have to concur - both because of the political sensitivity of the issue and because Kostunica's party controls the Interior Ministry.

¶3. (c) Many in Europe are now looking for a way to restart SAA talks as an encouragement to the new "Tadic dominated" government. We have heard for months that if a government is formed that even hints at new leadership in positions with responsibility for ICTY, the EU is likely to approve restarting SAA talks. Such a government now exists, with DS in control of Defense, a "technical" person putatively to head BIA (the domestic intelligence service), and Tadic personally in control of intelligence coordination through the new National Security Council. Enlargement Commissioner Rehn has just been here and signaled SAA restart intentions given a positive signal/action from the Serbs. The EU bar will presumably be a low one. We should scout out more specifically the Commission's intentions and in as much as possible act in concert with the EU. Unfortunately that means we don't have much time.

¶4. (c) At the same time, though, the outgoing government - which is well represented in the new government, including the PM's slot, Interior, and current authority over BIA - has done virtually nothing on the ICTY agenda since April, 2005. Kostunica created an "Action Plan" in July 2006 that is now totally discredited, and even by the admission of the appointed overseers of the plan there has been no meaningful action taken to locate and apprehend Mladic or other PIFWCs since summer, 2006. Kostunica pointedly ignored the USG's 11 proposed actions on ICTY cooperation that we delivered in July 2006.

¶5. (c) In this atmosphere, and in the context of a looming Kosovo status settlement that will require us to think creatively about ways to spend assistance money to get Serbia past the "day after," the deadline for certifying Serbia's compliance with the ICTY expires May 31. In our view, the best way to move forward is to simply let the deadline pass without a decision. This will have the effect of non-certification and freeze some assistance money, but will not require the Secretary to make a public statement to that effect. Following the expiration of the deadline, we could then approach Tadic privately and tell him that we are prepared to certify rapidly

once the new government has given some credibility to its ICTY commitments. We could even revive all or parts of our 11-point plan as a benchmark for judging sufficient action.

¶16. (c) This approach admittedly has some pitfalls: it could at least temporarily have us on a tougher track than the Europeans, and would be seen by Tadic, at least initially, as lack of confidence in "his" new government. We have a PD strategy in the drawer to explain, if needed, the lack of certification by the 5/31 deadline. Not certifying by the May deadline would also mean delaying some or all of the additional FY07 assistance that might be in train in Washington and that would be especially useful in the post-Kosovo status environment - including especially additional IMET assistance. Post has already submitted to the Department its proposed plan for FY07 SEED programs that factors in a suspension of 10 percent (USD 6 million) in programs.

¶17. (c) Such an approach, though, would also show Tadic and Kostunica that we remain committed to ICTY cooperation. An announcement of our willingness to reconsider the decision and our characterization of the postponement of a decision as being based on the performance of the past government would soften the blow and provide an opportunity for Tadic and the DS to take full credit for forward movement if/when we certify. This option might also help us with any possible opposition to unconditional certification on the Hill.

CONCLUSION

¶18. (c) Our policy is to continue to demand ICTY cooperation, but taking too hard a line on ICTY commitments early on would give the appearance that we are breaking ranks with the EU on ICTY cooperation and that we are cutting the legs out from the new DS-majority government before it has a chance to stand up. In an atmosphere where the EU is likely to re-start SAA talks as a result of government formation, we suggest we strike a balance that supports DS and Tadic without letting them off the hook for previous commitments.

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